

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KEESHA SMITH,)	
)	
Plaintiff,)	
v.)	No. 08 C 2980
)	
CHICAGO PUBLIC SCHOOLS and)	Judge Leinenweber
MONICA ROSEN,)	
Defendants.)	

**DEFENDANT BOARD OF EDUCATION'S ANSWER, AFFIRMATIVE DEFENSES
AND JURY DEMAND**

Defendant, Board of Education of the City of Chicago ("Board") by its attorneys, General Counsel Patrick J. Rocks and Assistant General Counsel Sabrina Haake, hereby submits its affirmative defenses and answers to Plaintiff's Complaint.

1. This is an action of employment discrimination.

ANSWER: Defendant ADMITS that this action asserts allegations of employment discrimination but DENIES that any discrimination occurred.

2. The plaintiff is Keesha Smith of the County of Cook in the State of Illinois.

ANSWER: Defendant ADMITS.

3. The defendant is Chicago Public Schools and Monica Rosen who resides at 125 South Clark Street and 320 North Elizabeth, city of Chicago, county of Cook, state of Illinois 60603. Defendant's telephone number is (312) 553-1200.

ANSWER: Defendant ADMITS the address of the Board of Education of the City of

Chicago is 125 South Clark Street, Suite 700, Chicago, Illinois 60603, telephone 773 553 1700, and DENIES the remainder of the allegations.

4. The plaintiff sought employment or was employed by the defendant at 320 West Elizabeth, Chicago, county of Cook, Illinois 60603.

ANSWER: Defendant ADMITS that plaintiff was employed by the Board of Education of the City of Chicago and DENIES the remainder of the allegations.

5. The plaintiff was employed but is no longer employed by the defendant.

ANSWER: Defendant ADMITS plaintiff was employed and DENIES that plaintiff is no longer employed by defendant in that plaintiff is employed by defendant and presently works at Howe School.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about, July 1, 2007.

ANSWER: Defendant DENIES.

7. (a) The plaintiff has filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies in the Illinois Department of Human Rights on or about ____.

(b) If charges were filed with an agency indicated above, a copy of the charge is attached. Yes.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

ANSWER: Defendant ADMITS.

8. The United States Equal Employment Commission has issued a *Notice of Right to Sue*, which was received by the plaintiff on May 7, 2008 a copy of which Notice is attached to this complaint.

ANSWER: Defendant ADMITS.

9. The defendant discriminated against the plaintiff because of the plaintiff's Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

ANSWER: Defendant DENIES.

10. The plaintiff is suing the defendant, a state or local government agency, for discrimination on the basis of race, color or national origin (42 U.S.C. §1983). Yes.

ANSWER: Defendant ADMITS that plaintiff alleges discrimination but DENIES that any discrimination as alleged occurred.

11. Jurisdiction over the statutory violation alleged is conferred as follows: over Title VII claims by 28 U.S.C. § 1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); over 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; over the A.D.E.A. by 42 U.S.C. §12117.

ANSWER: Defendant ADMITS.

12. The defendant retaliated against me for complaining of discrimination.

ANSWER: Defendant DENIES.

13. The facts supporting the plaintiff's claim of discrimination are as follows: Please see the attached pages 1 and 2 (set forth below, subparts 13-1 through 13-7):

13-1. My race is black. Employed by the City of Chicago- Chicago Public Schools HR.

ANSWER: Defendant ADMITS that plaintiff is black, ADMITS that plaintiff was hired

by the Board of Education of the City of Chicago, and ADMITS that plaintiff worked in the Human Resources division of the Board of Education of the City of Chicago.

13-2. On July 1, I found out that a similarly situated non-black administrative III such as Nancy Plezimeau and others that have levels of seniority and work experience which is similar to mine that are being paid more than me (See example 1B).

ANSWER: Defendant DENIES.

13-3. I complained about the discrimination of pay on July 1, 2007.

ANSWER: Defendant DENIES.

13-4. On August 2, 2007, I complained to Arnie Duncan the CEO of Chicago Public Schools about the discrimination.

ANSWER: Defendant DENIES.

13-5. On August 3, I was discharged allegedly because I resigned from my position.

ANSWER: Defendant DENIES.

13-6. I did not resign from my position.

ANSWER: Defendant DENIES.

13-7. Similarly situated white employees who have not complained of discrimination were not discharged.

ANSWER: Defendant DENIES.

14. Age Discrimination only. Defendant knowingly, intentionally and willfully discriminated against the plaintiff.

ANSWER: Inapplicable.

15. The plaintiff demands that the case be tried by a jury.

ANSWER: Defendant ADMITS that plaintiff demands trial by jury.

16. Therefore, the plaintiff asks that the court grant the following relief to the plaintiff: Direct the defendant to promote the plaintiff; if available, grant the plaintiff appropriate injunctive relief, lost wages, liquidate/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

ANSWER: Defendant DENIES that any acts or omissions occurred which would warrant any relief requested.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be dismissed with prejudice, and that Defendant be awarded fees and costs and all other further relief that the court deems just and appropriate.

FIRST AFFIRMATIVE DEFENSE

To the extent plaintiff seeks to recover for alleged incidents occurring outside the applicable 300-day limitation period for the filing of an administrative charge of discrimination, plaintiff may not recover for any such incidents of discrimination.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's prayer for relief must fail to the extent that plaintiff has failed to mitigate her damages.

THIRD AFFIRMATIVE DEFENSE

The employment decisions about which plaintiff complaints were based on legitimate business factors and not a discriminatory motive.

FOURTH AFFIRMATIVE DEFENSE

To the extent plaintiff failed to raise allegations set forth in the Complaint before the Equal Employment Opportunity Commission and/or the Illinois Department of Human Rights, those allegations are barred.

FIFTH AFFIRMATIVE DEFENSE

To the extent plaintiff has suffered any damages, damages should be reduced or denied on the basis of comparative fault in that plaintiff resigned from her position.

JURY DEMAND

Defendants seek trial by jury.

Respectfully submitted,

PATRICK J. ROCKS
General Counsel

s/ Sabrina Haake
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CERTIFICATE OF SERVICE

I, Sabrina Haake, an attorney do hereby certify that I caused the attached **Defendants' Answer, Affirmative Defenses and Jury Demand** to be served upon plaintiff, Keesha Smith via U.S. mail at 2605 South Indiana, Apt. 804, Chicago, Illinois 60616 this 22nd day of August, 2008.

s/ Sabrina Haake
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